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No. 06-1

IN THE

Supreme Court of the United States

AVERILL PARK CENTRAL SCHOOL DISTRICT, AVERILL PARK CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION, and AVERILL PARK HIGH SCHOOL,

Petitioners,

v.

LOUIS J. CIOFFI, III,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. In *Garcetti v. Ceballos*, 126 S. Ct. 1951 (2006), this Court held that the First Amendment does not protect statements made by public employees pursuant to their official job duties. In the decision below, the Second Circuit considered the potential impact of *Garcetti v. Ceballos* and concluded that Respondent's speech was not made pursuant to his official job duties, a conclusion that is fully supported by the record and is consistent with Petitioner's position during the proceedings below. Should this Court nevertheless grant, vacate, and remand the case in light of *Garcetti v. Ceballos*?

2. Should the Court grant plenary review to create an analytical framework for the application of this Court's decision in *Garcetti v. Ceballos* or allow the lower courts first to develop the law on a full record?

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SUMMARY OF REASONS FOR DENYING THE PETITION

The Second Circuit correctly framed the issue raised by *Garcetti v. Ceballos*, 126 S. Ct. 1951 (2006): "whether the First Amendment protects an employee's purely job-related speech about a matter of public concern expressed pursuant to the duties of employment." App. A at 16a-17a n.3. The Second Circuit then answered that question based on its review of the factual record: "***[T]he record here*** establishes that [Lou] Cioffi's speech was not made strictly pursuant to his duties as a public employee." App. A at 16a-17a n.3. [emphasis added]

The Averill Park School District ("Averill Park") comes to this Court complaining bitterly that the Second Circuit failed to apprehend the facts of this case correctly. But that is not a basis for seeking the intervention of this Court. *Certiorari* is not granted to review "erroneous factual findings or the misapplication of a properly stated rule of law." S. Ct. Rule 10.

Since the Second Circuit applied the correct rule of law to the facts before it, remand to the Second Circuit would not serve any useful purpose. For three reasons, this is simply not a case which could contribute in any meaningful way to the process by which the District Courts and Circuit Courts of Appeals articulate a comprehensive framework for defining the scope of an employee's duties in the wake of *Garcetti v. Ceballos*.

First, the Second Circuit found that the *Garcetti* rule does not apply to this case. The Second Circuit realized that Cioffi's speech might not be protected if it were uttered

pursuant to his duties as a public employee. In applying this principle to the record before it, the Second Circuit found that

> Cioffi's speech was not made strictly pursuant to his duties as a public employee. Rather, he was speaking as a citizen, who also happened to be a public employee, about the circumstances that led to criminal activity in the public school system and the manner in which school officials were responding to that conduct.

App.A at 16a-17a n.3. Cioffi went beyond the bounds of his job duties in speaking to the Board of Education and to the public, so the principle of *Garcetti v. Ceballos* was simply inapplicable. Remand would serve no useful purpose because "the decision below [does not] rest[] upon a premise that the lower court would reject if given the opportunity for further consideration." *Lawrence v. Chater*, 516 U.S. 163, 167 (1996).

Second, petitioner Averill Park, in the Courts below, denied that Mr. Cioffi's speech was within the category which *Garcetti v. Ceballos* defined as unprotected, *i.e.*, the class of internal communications that a governmental agency must control in order to maintain orderly operations. 126 S. Ct. at 1958 (citing *Pickering v. Board of Educ.*, 391 U.S. 563, 568 (1968). Averill Park admitted in the Second Circuit that Mr. Cioffi's should not be evaluated from this standpoint. "[A] *Pickering* balancing test is not required . . . Defendants have never contended that Cioffi's position was abolished because of his speech, or that its decision was justified because of any disruptiveness of his speech." Averill Park Second Circuit Brief, p. 29 n.3. This case was never

about maintaining discipline in the course of internal communications. It was always about speech to the Board of Education and to the public that was outside the realm of Mr. Cioffi's everyday job duties

Third, the Second Circuit only has denied Averill Park summary judgment and has remanded the case for trial. A trial will allow development and clarification of the issues, and if necessary an appeal. Because this case is at an interlocutory stage, and because Averill Park raises a factual defense (namely that Averill Park fired Cioffi for budget reasons and not speech reasons) that would, if accepted, eliminate the federal constitutional free speech question, there is no need for this Court to intervene now and render an advisory opinion on a constitutional question.

There inevitably will be cases where the parties raise the *Garcetti* issue, have extensive discovery, and then brief the issue to the courts. But, as Mr. Cioffi's case lacks such antecedent events, it is clearly an inappropriate vehicle for further development of the analytical framework on the relevant issue. Averill Park should not be able to force the Second Circuit and Mr. Cioffi to waste resources to re-state a rule of law that has already been correctly stated. Therefore, this Court should deny the Averill Park's petition for *certiorari.*

STATEMENT OF FACTS

The football coach at Averill Park High School was out of control. He encouraged his players to use prohibited performance enhancing substances, shrouded his program in cult-like secrecy, turned a blind eye to hazing of young players, and manipulated the public to pressure the Superintendent to keep his job. Ultimately, a sexual assault

on a young player occurred in the locker room. A fair reading of the evidence shows that the Superintendent, who personally had taken charge of the football program, tried to cover-up the sexual assault. JA652, 655-57, 659-61, 663-672, 674-87, 693, 695.[1] In particular, Superintendent tried to cover-up the incident by hiding it from the parents of the child who was victimized (App. A at 4a), by misleading the State police (JA947-949), by failing to continue the investigation to determine the full extent of the wrongdoing, and by denying even there was a victim (JA679).[2]

Lou Cioffi was the Athletic Director at Averill Park. The hazing incident, the effort to hide it from the parents of the victim, and Averill Park's pretension that there was no victim was so appalling to Lou Cioffi that it caused him to speak out. Mr. Cioffi (and High School Principal Nancy Noonan) wrote a letter to the Board of Education concerning the

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1. JA refers to the joint appendix before the Second Circuit.

2. The cover-up was noted by the New York State Police Senior Investigator assigned to the case. The Investigator testified that she was told by the District that the victim "had left the school for reasons unrelated to the locker room problems, and that what had happened was not of concern to that student" [JA947]. When the victim's mother filed a criminal complaint, the State Police realized they had been misled.

> Our investigation was conducted independently of the District without their assistance and came about as a result of [the victim's] mother contacting my office. . . . When I learned what had happened to [the victim], I was concerned about the fact school officials had been advised by [the victim] shortly after the incident and no action had been taken by school administrators to commence an investigation into this behavior or to hold students accountable.

Id.

Superintendent's willingness to overlook and even cover-up the abuses of the football program. App. A at 12a. As a result of the letter to the School Board, and the ensuing press conference, Cioffi was removed from his position as Athletic Director under the pretext of a budget crisis and Noonan was transferred to the bus garage. JA655-77, 681, 689-690, 695-696, 919-923, 1222-1226.

Cioffi filed suit in the United States District Court for the Northern District of New York alleging that his position was eliminated in retaliation for exercising his First Amendment rights. After extensive discovery, the Averill Park moved for summary judgment, arguing that Cioffi's letter and subsequent press conference concerning the hazing incident was not a matter of public concern. The District Court agreed. It found that Cioffi's letter and press conference was not protected speech under the First Amendment. Cioffi appealed.

The Second Circuit reversed and ordered a trial. The Second Circuit held that Cioffi's speech was a matter of public concern. "In both the letter [to the Board of Education] and press conference plaintiff addresses two issues that are of paramount interest to a community faced with a hazing incident in its schools: first, how the School District allowed such an incident to occur and, second, how the School District conducted its investigation into the hazing." App. A at 12a. Since Averill Park admitted that it had no legitimate governmental interest in restricting Cioffi's speech, the Second Circuit did not follow with a *Pickering* analysis. *See* Averill Park's Brief in the Second Circuit at p. 29 n.3 (informing the Circuit Court that "a *Pickering* balancing test is not required."). Finally, the Second Circuit concluded that there was ample evidence for a jury to conclude that Averill Park eliminated Cioffi's position in retaliation for his speech.

Averill Park never argued that Cioffi's letter and press conference were made pursuant to his duties as an Athletic Director and thus were not protected by the First Amendment. The Second Circuit nonetheless was mindful of this issue, and prior to rendering a decision, examined the record to determine if the issue presented to this Court in *Garcetti v. Ceballos* was applicable to Mr. Cioffi's case as well. App. A at 16a-17a n.3. Based upon its review of the record, the Second Circuit concluded that Mr. Cioffi was speaking as a private citizen outside the scope of his ordinary job duties. *Id.*

REASONS FOR DENYING THE PETITION

I. THE SECOND CIRCUIT'S DECISION NEITHER UNDERMINES NOR CONFLICTS WITH THIS COURT'S *GARCETTI* DECISION; THEREFORE, NO PURPOSE IS SERVED BY REMANDING THIS CASE TO RESTATE A RULE OF LAW THAT HAS ALREADY BEEN CORRECTLY STATED.

Remand is appropriate only when "[w]here intervening developments, or recent developments that we have reason to believe the court below did not fully consider, reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration." *Lawrence v. Chater*, 516 U.S. 163, 167 (1996). This is not the case here. The Second Circuit considered the issue presented in *Garcetti* and found it inapplicable. Thus, remand to the Second Circuit would serve no useful purpose.

The Second Circuit explicitly considered and addressed *Garcetti*:

> The Supreme Court's forthcoming decision in *Garcetti v. Ceballos*, *cert. granted*, 543 U.S. 1186 (2005), as to whether the First Amendment protects an employee's purely job-related speech about a matter of public concern expressed pursuant to the duties of employment, does not affect the disposition of this case because the record here establishes that Cioffi's speech was not made strictly pursuant to his duties as a public employee. Rather, he was speaking as a citizen, who also happened to be a public employee, about the circumstances that led to criminal activity in the public school system and the manner in which school officials were responding to that conduct. In both the November 7 letter and the subsequent press conference, Cioffi emphasized that his primary concern was the health and safety of the students involved.

App. A at 16a-17a.

The Second Circuit could not have made clearer its understanding that even speech on a matter of public concern would not be protected if it was uttered as part of a public employee's job duties. However, "the record here establishes that Cioffi's speech was not made strictly pursuant to his duties as a public employee." *Id.*

In light of the Second Circuit's review of the record, remand is inappropriate – "the decision below [does not] rest[] upon a premise that the lower court would reject if

given the opportunity for further consideration." *Lawrence v. Chater*, 516 U.S. 163, 167 (1996). In other words, if re-directed to this Court's decision in *Garcetti v. Ceballos*, there is no reason to believe the Second Circuit would reach a different result. It already applied the correct rule of law to the factual record.

There is no basis for quarrelling with the Second Circuit's formulation of the threshold inquiry presented by *Garcetti*: "whether the First Amendment protects an employee's purely job-related speech about a matter of public concern expressed pursuant to the duties of employment." App. A at 16a-17a n.3. The Second Circuit accurately identified the critical issue – in what capacity did Cioffi utter his speech – pursuant to the requirements of his job or as a private citizen. *Compare*, *Garcetti*, 126 S. Ct. at 1960-61 (holding that "[t]he controlling factor . . . is that [Ceballos'] expressions were made pursuant to his duties as a calendar deputy.").

There is plentiful support in the record for the Second Circuit's conclusion. Averill Park itself told the Second Circuit that Mr. Cioffi went outside the parameters of his ordinary job duties in writing to the Board of Education. The Superintendent swore that "[t]he Athletic Director reported, at different times and for different purposes, to the High School Principal, the Assistant Superintendent and the Superintendent." [JA1108]. This statement accurately reflects Cioffi's job description [JA115-118], which is annexed to this brief as Appendix 1. It is beyond dispute that Cioffi did not report to the Board of Education. He did not participate in policy-making at the Board level. And, the Superintendent did not wish him to take the extraordinary step of writing to the Board. Yet, Cioffi, like parents who also wrote to the Board, felt morally obligated to express his views as to the

inadequacy of Board policy concerning a hazing problem that had already attracted massive media attention. App. A at 13a. The Second Circuit understood the record and concluded that Cioffi spoke as a citizen on a matter of public concern.

Petitioner tries to impugn this conclusion by arguing that the Second Circuit's analysis of *Garcetti v. Ceballos* focused incorrectly on the content of Cioffi's speech, rather than upon the capacity in which it was spoken. In the most qualified and vague terms, petitioner argues that the Second Circuit "*appears to have assumed* that Cioffi was simultaneously speaking as a citizen, while carrying out his officials duties, solely because his speech touched on matters of public concern." (emphasis added).

This argument is not faithful to the text of the Second Circuit's opinion. That opinion acknowledges and rests on the proposition that "purely job-related speech about a matter of public concern expressed pursuant to the duties of employment" would not be protected. App. A at 16a. The Second Circuit's ruling fully complies with the legal underpinnings of *Garcetti v. Ceballos*. The Circuit Court made no "apparent assumption" to the contrary.

Averill Park's real complaint is that it thinks the Second Circuit failed to apprehend the facts of this case correctly. Averill Park spends most of its energies decrying the Second Circuit's failure to see that Cioffi's speech was in fact self-serving and personally motivated.[3] In essence, petitioner

3. The bulk of the factual disputes which petitioners identify have nothing at all to do with the *Garcetti* issue but relate to the question which occupied defendant's attention in both the District Court and the Court of Appeals: whether Cioffi's speech was a matter

(Cont'd)

disagrees with the Second Circuit's view of the record in this case. But, that is not a basis for seeking the intervention of this Court. *See* S. Ct. Rule 10.

As the Second Circuit recognized, application of the principle enunciated in *Garcetti v. Ceballos* to the record in this case would not change the result. So, Averill Park's petition is not really seeking to have the Circuit re-apply *Garcetti* as it is to have the Circuit adopt a rule of law that this Court has previously rejected. Petitioner argues that, because Cioffi's letters were in part based on inside information which private citizens do not have, that is because he used information obtained in the course of his employment, his speech cannot be protected by the First Amendment. This argument was specifically rejected in *Garcetti*. This Court recognized the importance of having public employees contribute to the civic discourse by bringing information they obtain on their jobs to public light. "Were [public employees] not able to speak on [the operation of their employers], the community would be deprived of informed opinions on important public issues. The interest at stake is as much the public's interest in receiving informed opinion as it is the employee's own right to disseminate it." *Garcetti*, 126 S. Ct. at 1958 (quoting *San Diego v. Roe*, 543 U.S. 77, 82 (2004) (*per curiam*)).

(Cont'd)
of public concern or a private employment grievance as those concepts were defined in *Connick v. Myers*, 461 U.S. 138 (1983). Petitioner's frequent protestations against the Second Circuit's ruling on this issue (*e.g*, labeling Cioffi's speech as self-serving and personally motivated) are irrelevant here. As petitioner reluctantly concedes (Pet. 19, fn. 2), this is not the issue on which it has sought certiorari.

In the final analysis, no useful purpose would be served by vacating the judgment of the Second Circuit and remanding this case to that Court for further proceedings. The record of this case simply does not contain any foundation for concluding that the Second Circuit's decision undermines or conflicts with this Court's *Garcetti v. Ceballos* decision. Thus, there is no reason to waste valuable judicial resources and remand the case to the Second Circuit to restate a rule of law that has already been correctly stated.

II. THIS CASE IS NOT IN A POSTURE WHERE PLENARY REVIEW OR REMAND WOULD ALLOW THIS COURT OR THE LOWER COURTS TO ARTICULATE AND DEVELOP A COMPREHENSIVE FRAMEWORK FOR APPLYING *GARCETTI v. CEBALLOS.*

As a general rule of law, an appellate court will not consider an issue not passed upon below, particularly at the stage when the record is fully developed. *Singleton v. Wulff*, 428 U.S. 106, 120 (1976). Although the record is fully developed, now, for the first time, on a petition addressed to this Court, Averill Park is raising the argument that Cioffi's speech was made pursuant to his job duties. Averill Park, however, told the Second Circuit something very different. It explicitly told the Second Circuit that Cioffi was not fired because of his speech and that, unlike the public employer in *Garcetti v. Ceballos*, it had no legitimate interest in restraining his speech. "[Averill Park] ha[s] never contended that Cioffi's position was abolished because of his speech, or that its decision was justified because of any disruptiveness of his speech." Averill Park's Brief in the Second Circuit at p. 29 n.3. Nor did Averill Park ever request the Second Circuit

to allow additional briefing on the issue that Cioffi's speech was part of his job duties.[4]

More importantly, Averill Park's position did not differ at all from that of the Second Circuit – it never saw this record as even raising the question whether Cioffi's speech was a mandatory part of his job duties. Averill Park, if it thought the facts supported it, could have defended the suit on the grounds that Cioffi's speech was uttered in his capacity as a public employee. Averill Park did not, even though other circuits, district courts, and even the very district court where this case arose had certainly utilized similar analysis prior to this Court's decision in *Garcetti v. Ceballos*.[5]

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4. *Certiorari* was granted in *Garcetti v. Ceballos* on February 28, 2005. Cioffi's case was argued several months later on September 7, 2005, yet Averill Park never mentioned *Garcetti v. Ceballos* in its argument to the Second Circuit, nor did it write to the Circuit at any time concerning *Garcetti v. Ceballos*.

5. *E.g.*, *DiMeglio v. Haines*, 45 F.3d 790 (4th Cir. 1995) (*Connick* left unprotected employee speaking as an employee, rather than as a citizen); *Buazard v. Meridith*, 172 F.3d 546, 548-49 (8th Cir. 1999) ("Unless the employee is speaking as a concerned citizen, and not just as an employee, the speech does not fall under the protection of the First Amendment. . . ."); *Gillum v. City of Kerrville*, 3 F.3d 117, 120-21 (5th Cir.1993) ("[W]e d[o] not focus on the inherent 'importance' of the subject matter of the speech, but on the extent to which the terminated employee spoke as a citizen or employee. . . ."); *Thomson v. Scheid*, 977 F.2d 1017, 1020 (6th Cir. 1992) ("First Amendment protection extends to a public employee's speech when he speaks as a citizen on a matter of public concern, but does not extend to speech made in the course of acting as a public employee."); *Schad v. Jones*, 415 F.3d 671, 676 (7th Cir. 2005); *Ethier v. City of Cohoes*, 2006 U.S. Dist. LEXIS 20647 *15 (N.D.N.Y. 2006) ("Speech that arises in the usual course of a public official's duties is generally not protected.") (citing *Cahill v. O'Donnell*, 75 F. Supp.2d 264, 273 (S.D.N.Y. 1999)).

Further, the Second Circuit only has denied Averill Park summary judgment and has remanded the case for trial. A trial will allow development and clarification of the issues, and if necessary an appeal. Because this case is at an interlocutory stage, and because Averill Park raises a factual defense (namely that Averill Park fired Cioffi for budget reasons and not speech reasons) that would, if accepted, eliminate the federal constitutional free speech question, there is no need for this Court to intervene now and render an advisory opinion on a constitutional question.

This is especially true when the question whether Cioffi spoke pursuant to his job duties is being raised for the first time in a petition to this Court. Averill Park has chosen a vehicle particularly ill-suited for Supreme Court review. There inevitably will be cases where the parties raise the *Garcetti v. Ceballos* issue, have extensive discovery, and then brief the issue to the court. This did not happen here, and therefore this case is inappropriate for developing a rule of law either upon full review or remand.

CONCLUSION

The petition for a writ of certiorari should be denied because no useful purpose would be served by vacating the judgment of the Second Circuit and remanding this case to that Court for further proceedings.

Respectfully submitted,

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APPENDIX

APPENDIX — JOB DESCRIPTION OF THE DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF ATHLETICS AND PHYSICAL EDUCATION DATED SEPTEMBER 25, 1991 AND REVISED JUNE 1, 1999

AVERILL PARK CENTRAL SCHOOL DISTRICT

JOB DESCRIPTION OF THE DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF ATHLETICS AND PHYSICAL EDUCATION

JOB GOAL: To provide substantial and effective leadership in developing, achieving, and maintaining the interscholastic athletic and district physical education programs.

GENERAL ADMINISTRATION AND COORDINATION OF PROGRAM

1. Comply with New York State policies and the regulations associated with New York State Public High School Athletic Association, and with School Board Policy relating to athletics.

2. Promote good sportsmanship as a priority of the athletic program.

3. Recommend policies for control of athletic contests, provide a program for educating spectators, and coordinate chaperones and other supervision.

4. Schedule athletic contests and make arrangements for officials, field crews, transportation, supervision (crowd

control), and medical services for the interscholastic athletic program.

5. Meet with the high school and middle school principals on a regular basis to discuss the athletic and intramural programs.

6. Represent the school district at conferences, meetings, and athletic councils at the local, regional, state, or national level, subject to approval of the principal and superintendent of schools.

7. Plan policies and procedures for emergency care, such as victims of accident, injury or sudden illness.

8. Supervise interscholastic awards.

9 Organize and direct tournaments.

10. Prepare written reports for administrators within the district and the State Education Department regarding athletics and physical education.

11. Perform various assignments as required by the high school or middle school principals.

FACILITIES

12. Study needs and make recommendations to the elementary school, middle school or high school principal for construction, modification, and/or

alteration of indoor and outdoor facilities related to athletics and physical education.

13. Arrange and/or conduct periodic inspection of facilities and equipment and recommend necessary maintenance and repairs, particularly related to students' health and safety, to the Head Custodian or grounds supervisor.

14. Schedule, assign and regulate the equitable use of indoor and outdoor facilities for educational and recreational purposes by school groups.

15. Work with the grounds supervisor on preparing and maintenance of all practice and game fields.

EQUIPMENT AND SUPPLIES

16. Insure that all student participants have the equipment required to practice and compete safely.

17. Organize and supervise the management of instructional and athletic equipment, materials, and supplies (includes the selection, purchase, identification, storage, inventory, maintenance, and equitable distribution of supplies) for interscholastic and modified athletic teams.

18. Prepare long term plans for purchase of equipment and supplies.

19. Devise procedures for providing, controlling, and maintaining athletic uniforms.

Appendix

BUSINESS MANAGEMENT

20. Supervise the collection, custody, and deposit of money collected as ticket, sales, gate receipts, and special projects.

21. Develop a budget including provisions for new and replacement equipment, supplies, maintenance, and personnel services.

22. Provide for the allocation of funds in accordance with budgetary appropriations, accounting and reporting procedures.

23. Initiate, approve, or authorize all athletic requisitions, examine and approve bills for payment for equipment, supplies, materials, and services and consult with the Principals on the purchase of physical education equipment.

SUPERVISION AND TRAINING

24. Coordinate with nurses and building principals for the scheduling of medical examinations for candidates of athletic teams and establish follow-up procedures to secure correction of defects.

25. Assist with records of all athletes checked to determine provision for insurance coverage and required physical examinations, and eligibility for athletic competition.

Appendix

26. Organize and/or advise student groups related to athletics.

27. Recruit and recommend coaches and intramural staff for appointment, subject to the agreement of the building principal. Assist the building Principals in reaching closure on the final selection of regular classroom teachers as their appointment relates to a vacant intramural or coaching position and assists all Principals on the appointment of physical education staff.

28. Assure that coaches meet New York State coaching certification requirements.

29. Help prepare and coordinate schedules of coaches for all phases of the athletic program.

30. Observe and evaluate the effectiveness of coaches in all phases of coaching, and maintain records of all ratings in evaluations.

31. Disseminate information and stimulate interest pertaining to seminars, workshops, extensions courses, conferences, clinics, and research at the local, state district, and national level.

PUBLIC RELATIONS

32. Act as liaison or moderator to any Booster Club or parent support group and recommends and supervises the faculty advisor to the Varsity Club.

Appendix

33. Develop and supervise a system of news releases to area media relating to schedules and the achievements of teams, players, and coaches.

34. Develop, maintain, and coordinate effective relationships and high morale relating to the athletic program, among teachers, students, coaches, parents, and community and state organizations.

JOB QUALIFICATIONS: Those required to supervise the district-wide interscholastic education and physical education program and its related activities. A School Administrator Supervisor (SAS) certificate is required.

REPORTS TO: Middle school principal for those intramural and athletic activities associated with students in grades 6-8.

High school principal for those intramural and athletic activities associated with students in grades 9-12

Assistant Superintendent for those physical education activities associated with students in grades K-12.

Superintendent for all final recommendations associated with annual budget, new athletic program initiatives, facility needs and periodic discussions related to staffing.

9/25/91
Revised; 6/1/99